C.S. 282 (3)

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

CONTEMPT PETITION NO. 101 /2004

APPLICANT : Shiv Shankar Shukla S/o. late Ramnath Shukla, aged about 66 years, Agriculturist and Contractor, R/o. Village Kunwra, Tah. Nawagarh, District Durg (C.G.).

APPELLANT IN S.A. 177/2002.

P. R. No. 18/6/04
Presented by Shri M. K. Bhadra
dated 5-8-04

VERSUS

NON-APPLICANT : The State of Chhattisgarh
Through - Collector, Durg (C.G.)

RESPONDENT IN S.A. 177/2002

CIVIL CONTEMPT PETITION U/S 12-14 OF THE CONTEMPT OF COURT ACT 1971.

The applicant begs to state as under :-

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**आदेश पत्रक**

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मामला क्रमांक Contempt petition No. 101/04 सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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**25.04.2005**

Shri M.K.Bhaduri, counsel for the petitioner.

Shri JD Bajpai, Government Advocate for the State / Non-applicant.

Heard on admission and I.A.No.2589/04 for substitution/bringing the name of the Collector in the case record.

Tahsildar in Revenue case No.17-A/68-85-86 passed an order on 19.05.1986 against the petitioner directing him to vacate the land in which house and Ara machine has been installed by him, as the said land belongs to the Government and has been encroached upon by the petitioner. The petitioner, challenging the said order filed a Civil suit bearing No,90-A/91 for declaration of title and permanent injunction against the State Government. The said suit was dismissed vide Judgment and decree dated 14.02.1995. Aggrieved by that Judgment and decree, petitioner preferred an appeal bearing Civil appeal 15-A/1995. The appellate Court fortified the orders passed by the trial Court, dismissed the appeal vide Judgment and decree dated 30.04.2002. Against that Judgment and decree passed by the First appellate Court, Second appeal bearing No.177/2002 has been filed before the High Court. This Court on 16/05/2002 directed the

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**आदेश पत्रक**

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**मामला क्रमांक ..... सन् 200**

**..... विरुद्ध .....**

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parties to maintain the status quo with regard to the Ara machine, as it exists today i.e., on 16/05/2002.

During the pendency of the Second appeal, the Divisional Forest Officer (DFO) Durg issued a show cause notice No.5098 dated 03.07.2004 to the petitioner for cancellation of renewal of license. The said notice was replied by the petitioner. DFO vide order dated 19.07.2004 cancelled the license of Ara machine and ordered to close the same.

The petitioner's contention is that the Hon'ble High Court vide its order dated 16.05.2002 directed to maintain the status quo, despite that the officials of Non-applicant / State Government have willfully dis-obeyed the said order and passed an order regarding cancellation of license and closing the Ara machine and thereby the State Government through the Collector, Durg has committed the offence punishable under contempt of Courts Act 1971.

Vide I.A.No.2589/2004, the petitioner has made a prayer that earlier in the original petition, the name of the Collector has not been mentioned, therefore, his name may kindly be brought on record.

Section 2 (B) of Contempt of Courts Act, 1971 reads as below :

*Section 2(b) – " "civil contempt" means willful disobedience to any judgment,*

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मामला क्रमांक ..... सन् 200

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| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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*decree, direction, order, writ or other process of a Court or willful breach of or undertaking given to a Court;"*

Revenue authorities on finding that the land over which Ara machine has been installed belongs to the Government, initiated the proceedings and passed an order to that effect. The suit for declaration of title over the said land filed by the petitioner has been dismissed by the trial Court. First appellate Court affirmed the said judgment and decree and dismissed the appeal. Against that, the second appeal has been preferred and is pending. The land over which Ara machine is installed, whether it belongs to the petitioner or to the Government is to be determined and to save the petitioner's removal or to protect his possession, this Court on interim stage passed the following order on 16/05/2002:-

*"Parties are directed to maintain status quo with regard to Ara machine as it exists today."*

On query being made during the argument by this Court, learned counsel for the petitioner frankly conceded that Ara machine still exists on the said land and it has not been removed from there.

(पीछे देखिये)

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## आदेश पत्रक

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| Padma | This Court has not ordered any of the authorities that in violation of rules or law, Ara machine should be allowed to operate. The order dated 16/05/2002 has been passed by this Court to protect the possession of the petitioner over the suit land and according to admission made by the learned counsel for the petitioner, the possession still rests with him. Neither the State Government nor its officials have dispossessed the petitioner.<br>Therefore, the contempt petition No.101/2004 is dismissed and accordingly I.A Nos.2589/2004 & 2588/2004 stand disposed of.<br>Sd/-<br>V.K. Shrivastava<br>Judge | |

(पीछे देखिये)